

HUMAN RESOURCES POLICY
Fauquier County, Virginia

Policy Title: Reduction In Force
Section No.: 26

Effective Date: 05/19/03
Supersedes Policy: 01/01/97

I. PURPOSE

It is the objective of the Board of Supervisors to provide an administrative process for the implementation of reduction in force (RIF) directives.

II. SCOPE

This policy applies to all employees.

III. DEFINITIONS

A. Affected/Active Position

Affected/active position is defined as the position in which an employee is actively employed at the time of the reduction in force directive.

B. Bump

Bump is defined as the displacement of one employee by another based on higher retention points.

C. Department

Department is defined as a County department or constitutional office.

D. Probationary Appointment

Probationary appointment is defined as any employee serving the initial probationary period of a position.

E. Reduction in Force (RIF)

Reduction in force (RIF) is defined as a reduction in the number of approved positions because of lack of funds or work and/or the elimination of one or more program functions.

F. Retention Points

Retention points are defined as a point system devised of a combination of length of service and a two (2) year period of performance evaluation scores.

G. Secondary Position

Secondary position is defined as a position in which an employee is not actively employed when he/she becomes subject to a RIF procedure and which is equal to or lower in grade than the active position. A secondary position must be a position for which the employee meets the minimum qualifications.

H. Seniority

Seniority is defined as the sum of the employee's continuous length of service with the County.

I. Temporary Appointment

Temporary appointment is defined as an employee working for a maximum period not to exceed twelve (12) months.

IV. **PROCEDURES**

A. Need For A Reduction In Force

1. A reduction in force may be implemented on a County-wide or department specific basis.
2. The County, or specific department, shall implement a reduction in force only when such action is required because of a lack of work, lack of funds, and/or the elimination of one or more program functions.
3. When the County, or specific department, encounters the need to reduce the work force the Board of Supervisors shall issue a reduction in force directive, to include the identification of an applicable severance package, if any. The reduction in force directive shall include the program functions or specific positions to be eliminated or reduced.
4. Based upon the reduction in force directive, Department Heads/ Constitutional Officers shall determine the positions to be reduced or abolished (affected positions) and shall recommend to the Human Resources Director the positions to be eliminated, or as an alternative, the number of work hours to be reduced through job sharing or amended scheduling.

5. The Human Resources Director shall forward the recommendation with appropriate comments to the County Administrator.
6. Upon approval of the County Administrator, the Human Resources Director shall be responsible for the implementation of the reduction in force directive.

B. Implementation

1. When implementation of a reduction in force directive is required, the following steps shall be taken in the order listed below:

Step 1: normal attrition;

Step 2: termination of temporary appointments in the affected positions;

Step 3: transfer to funded vacant positions;

Step 4: termination of probationary appointments in the affected positions;

Step 5: layoff of employees in the affected positions.

Step 1: Normal Attrition

1. Upon receipt of the determination of the County Administrator to implement a reduction in force, the Human Resources Director shall halt the processing of advertising or selection for all positions of employees indicated in the RIF directive. No further applications for affected positions shall be released to any department.
2. Incumbents in affected positions shall be asked to consider early retirement. Any decision to utilize an early retirement option shall be the sole prerogative of the employee.

Step 2: Termination of Temporary Appointments

Upon a determination by the County Administrator, in consultation with the Human Resources Director, that normal attrition (Step 1) shall not fully implement the RIF directive, the termination of temporary appointments shall commence.

Step 3: Transfers to Vacant Funded Positions

1. Upon a determination by the County Administrator, in conjunction with the Human Resources Director, that termination of temporary

appointments (Step 2) shall not fully implement the RIF directive, outstanding vacancies that have not been designated for elimination shall be filled by the transfer of employees whose positions have been designated for RIF. Such transfers shall be made to the same or similar positions in the respective department or other departments.

2. Based upon the County Administrator's authority to transfer employees, the calculation of retention points shall not be required.
3. Department Heads/Constitutional Officers shall make transfer recommendations to the County Administrator, through the Human Resources Director.
4. Employees refusing transfers to the same or similar positions shall be laid off without further consideration.
5. If applicable, the Human Resources Director shall notify the departments that shall receive the transferring employees and the departments affected by the RIF of the proposed effective date of transfers.
6. When implementing transfers, the ability of employees to perform work assignments shall be assessed and shall be the primary criteria for retention. Employees shall be required to demonstrate their ability during a special probationary period of three (3) months.
7. During this special probationary period the employees' demonstrated performance shall be evaluated by the Department Head/Constitutional Officer and shall be the sole basis of any determination to retain or to terminate employees from employment. The provisions in "Step 5: Layoff of Regular Employees" shall not apply.

Step 4: Termination of Probationary Appointments

1. Upon a determination by the County Administrator, in consultation with the Human Resources Director, that transfers to funded vacant positions (Step 3) shall not fully implement the RIF directive, the termination of probationary appointments in affected positions shall commence. Probationary employees in the affected classes shall be given a minimum of ten (10) working days notice prior to termination.
2. The Human Resources Director shall prepare the written termination notices to all such employees. The original and a copy of all such notices shall be forwarded to the appropriate Department Head/Constitutional Officer, who shall meet individually with each employee.

Step 5: Layoff of Regular Employees

1. Following the implementation of steps 1 through 4, the layoff of regular employees shall be initiated, if necessary, to complete the reduction specified in the RIF directive.
2. When positions have been designated for reduction, employees shall be laid off on the basis of both service points and performance points, with those having the fewest points subject to layoff first.
3. Service and performance points (retention points) shall be calculated based on the following:
 - a. The date used to calculate the retention points shall be the date on which the reduction in force directive is issued.
 - b. Each full year (twelve calendar months) of continuous service as a permanent employee shall equal one (1) service point. Each additional full month of continuous service shall equal one-twelfth (1/12) or (.0833) service point.
 - c. Former permanent service shall be counted only if the break in service is one (1) year or less.
 - d. Service shall be counted on a pro-rated basis for part-time employees.
 - e. Given that employees retain their employment status while on leave, any length of leave time (with or without pay), shall not be deducted when calculating service.
 - f. Probationary service shall be included when calculating permanent service.
 - g. Previously documented service with another employer shall be included if the employer subsequently became absorbed into the County system.
4. For employees in affected positions, points shall be given for the overall performance evaluation ratings received in the two (2) years immediately preceding the effective date of retention point calculations.
 - a. Two (2) points shall be added to the scores of employees who have received overall performance ratings of meets standards and above. Zero (0) points shall be added to the scores of employees who have received overall performance ratings of fair and below.

- b. In a situation where a permanent employee has been promoted, but has not yet completed the promotion probationary period, the employee's overall performance rating score on an Interim Performance Appraisal shall serve as the employee's most recent evaluation rating.

C. Exemption From Separation

- 1. A Department Head/Constitutional Officer may request that an employee be exempted from separation, if the following circumstances exist:
 - a. the Department Head/Constitutional Officer states that the employee is essential to the efficient operation of the department because of a specific special skill or ability possessed by the individual; and
 - b. the Department Head/Constitutional Officer wishes to retain the employee in preference to a person with a higher number of retention points but who does not possess the specific special skill or ability; and
 - c. the Department Head/Constitutional Officer justifies that separation or displacement of the employee would be detrimental to the financial, public or employee relations posture of the County.
- 2. The County Administrator or designee shall make the final determination as to whether an employee may be exempted from separation.
- 3. An employee exempted from separation shall be retained in his/her position and the individual with the next lowest number of retention points in the same position shall be separated.

D. Placement Priority/Bumping Rights

- 1. An employee in an affected position shall first be transferred to a vacancy in his/her position in any department. If this is not an option, an employee in an affected position shall be transferred to the vacancy for which he/she meets the minimum qualifications (secondary position).
- 2. In instances where more than one employee meets the minimum qualifications for the vacant position, an internal recruitment process shall be used to select the employee to be transferred to the vacant position.
- 3. If there are no vacancies, an employee in an affected position shall first

displace a probationary employee occupying the same position in the same department or second, displace a probationary employee in a secondary position in the same department.

4. If there are no opportunities for placement in a vacancy or displacement of a probationary employee, then the employee is eligible to bump within secondary positions within his/her department. An employee with the highest number of retention points is eligible to bump an employee with fewer retention points.
5. All affected employees must accept the first placement opportunity.
6. When implementing bumping, the ability of employees to perform the work assignments of the new position shall be assessed and shall be the primary criteria in retention. Employees shall be required to demonstrate their ability during a special probationary period of three (3) months.
7. During this special probationary period the employees' demonstrated performance shall be evaluated and shall be the sole basis of any determination to retain or to terminate employees. The provisions in "Step 5: Layoff of Regular Employees" shall not apply.
8. The Department of Human Resources shall apply retention points and bumping processes.

E. Ties In Retention Points

Ties in retention points shall be decided by comparing the most recent performance evaluations. The employee with the higher overall average rating score shall have preference over the employee with the lower score.

F. Re-Employment/Recall List

1. An employee who is demoted or laid off under these procedures shall have his/her name placed on the recall list for his/her active position and shall be afforded first opportunity for re-employment in the active position in order of seniority.
2. Employees who return to a position in their active class under this procedure shall be treated as reinstatements with respect to pay and leave accrual.
3. If an employee is offered and rejects an opportunity for re-employment in the active position, his/her name shall be removed from the active recall list.

4. At the employee's option, his/her name may be placed on the recall list for secondary positions as defined in this procedure. Should a vacancy occur in such a secondary position, employees on the recall list shall be certified for the vacant position.
5. If an employee is offered and rejects an opportunity for re-employment in a secondary position, his/her name shall be removed from the recall list.
6. Employees shall remain on re-employment lists created under this procedure for one (1) year, or until the employee accepts placement in the active class or secondary position, or until the employee asks to be removed from the list, whichever occurs first. In no case, however, shall an employee be eligible for non-competitive appointment to a position higher in pay grade than the position in which the employee was serving at the time of layoff or demotion.
7. Part-time positions that become available in a position in which there are persons with re-employment rights shall be offered to persons with re-employment rights in that position on the basis of seniority. If an employee accepts a part-time position, he/she shall remain eligible for re-employment as described above.

G. Pay Provisions

1. An employee who accepts a demotion under this procedure is authorized to receive the compensation of the former grade and position for not more than six (6) months. During this "grandfather" period, the employee shall be entitled to merit pay increments or other general pay adjustments afforded to other employees.
2. If the employee remains in the position at the end of the six (6) month "grandfather" period, he/she shall be demoted to the grade to which the new position is allocated, and his/her salary shall be adjusted, in accordance with the policy governing demotion.
3. If the employee is returned to his/her active position within the one (1) year re-employment period, the rate of pay shall be consistent with the active position.

H. Notice Period And Severance Package

Non-probationary permanent employees shall be given a minimum of ten (10) working days notice prior to layoff.

1. The Human Resources Director shall prepare the written termination notice to all employees in affected positions. The original and a copy of

all such notices shall be forwarded to the appropriate Department Head/Constitutional Officer who shall meet individually with each employee.

3. Upon receipt of the RIF directive, the Human Resources Director shall develop a severance package for approval by the Board of Supervisors. The package shall consist of pay, benefits, and services available to those employees in affected positions.
4. Severance pay shall be paid at the rate of pay at time of layoff and shall be granted to permanent non-probationary employees.
5. An employee shall not accrue leave or other benefits related to severance pay. Severance payments to an employee shall cease, if not exhausted, upon the re-employment of the employee to a position in the County.
6. Severance pay shall be forfeited by an employee who declines a transfer, reassignment or demotion to another vacant position prior to the effective date of any such separation due to a reduction in force.

I. Administrative Hearing

1. Any employee who believes he/she has been denied the benefit of the procedures as specified in this policy shall have access to an administrative hearing.
2. An employee must file a request for an administrative hearing to the Human Resources Director within five (5) working days of receipt of a layoff notice. The request must state the procedures that the employee believes have been misapplied in his/her case, or why the separation is an error.
3. A panel comprised of the County Administrator, the employee's Department Head/Constitutional Officer, and the Human Resources Director shall conduct a hearing within five (5) working days following the submission of a request for a hearing to the Human Resources Director. Additional time may be granted by mutual consent of the parties. The decision of the panel is final.

J. Transition Assistance

1. Non-probationary employees being separated as a result of a reduction in force shall be scheduled for a transition information session with a representative of the Human Resources Department.

2. Employees who are laid off under a reduction in force directive shall be entitled to unemployment compensation as provided by the Code of the Commonwealth of Virginia.
3. Employees who are laid off shall be paid for earned annual, sick or compensatory leave as provided for in Human Resources Policies.
4. Employees who are laid off shall be given priority consideration for any employment opportunity for which they are qualified.

K. Employee Responsibility

1. Any employee laid off and placed on a recall list shall be responsible for notifying the Human Resources Department of any change in address or telephone number.
2. Employees shall be notified to return to work by certified mail. Any individual who fails to report for work as directed within ten (10) working days following receipt of notification to return shall forfeit all further recall or employment rights.

L. Unfair Application Of Procedures

The Human Resources Director is authorized to review records related to the reduction in force procedure and investigate allegations of unfair application of procedures.

M. State Funding/State Funded Positions

1. Any State funded position, which is supplemented by the County, may be subject to a reduction or elimination of the County supplement. This loss of County supplement may not ultimately result in a position reduction.
2. This policy shall not apply to Constitutional Officers who find it necessary to implement a reduction in force as a result of a reduction or elimination in State funding.